



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL - RETURN RECEIPT REQUESTED**AUG 02 2012**

Harvard Real Estate-Allston Inc.
c/o Gordon Reynolds, Director of Environmental Affairs
Harvard University Environmental Health, Safety and Emergency Management
46 Blackstone Street
Cambridge, Massachusetts 02139

Re: PCB Cleanup and Disposal Approval under 40 CFR § 761.61(c) and § 761.79(h)
168 Western Avenue, Allston, Massachusetts
RTN: 3-30396

Dear Mr. Reynolds:

This is in response to the Harvard Real Estate-Allston, Inc. (Harvard) Notification¹ for approval of a proposed PCB cleanup at its building located at 168 Western Avenue in Allston, Massachusetts (the Site). The Site contains PCB caulk that exceeds the allowable PCB levels under the federal PCB regulations at 40 CFR § 761.20 and § 761.62. Specifically, caulk containing PCB concentrations at greater than or equal to (\geq) 50 parts per million (ppm) has been identified in exterior and interior caulk at the Site.

To address PCB caulk and PCB-contaminated building substrates and other materials, Harvard submitted a PCB cleanup and disposal plan under 40 CFR under §§ 761.61(c) and § 761.79(h) that included the following proposed abatement activities:

- Remove and dispose of caulk with PCB concentrations with \geq 50 ppm, including caulk located in six vertical joints on the northern wall of the small concrete masonry unit (CMU) block building;
- Remove and dispose of asphalt, concrete, and soils with PCB concentrations greater than ($>$) 1 ppm;

¹ Information was prepared by ATC Associates, Inc. and Woodward and Curran on behalf of Harvard to satisfy the requirements under 40 CFR §761.61 (c) and 761.79(h). Information was submitted dated December 21, 2011 (Request for Approval of TSCA Risk-based Clean-up of PCBs); May 29, 2012 (Response to EPA Comments); and July 24, 2012 (email Response to EPA comments). These submittals shall be referred to as the "Notification".

- Remove and/or encapsulate PCB-contaminated interior and exterior structural concrete and interior concrete floor (as applicable) with 2 coats of an epoxy and/or acrylic-based coating following removal of the caulk;
- Implement long term maintenance and monitoring of the encapsulated areas; and,
- Record a deed notice to document that PCB concentrations greater than (>) 1 ppm remain at the Site.

To support its project schedule, the following materials have been removed and disposed of at a TSCA-permitted disposal facility in accordance with the performance-based disposal option under § 761.61(b):

- All caulk and associated former showroom and garage storefront doors/windows
- All caulk and associated fascia boards in the former showroom
- Interior demising window and associated caulk
- Portions of the concrete floor within the garage identified as *PCB remediation waste* (i.e., PCBs > 1 ppm)
- Asphalt, concrete sidewalk, and soils adjacent to the northern façade of the garage façade and eastern and western facades of the former showroom
- Carpet/mastic from the former showroom and garage

Based on the EPA's review, the information provided in the Notification meets the requirements under 40 CFR § 761.61, § 761.62, and § 761.79(h) for cleanup and disposal of PCB wastes. EPA finds that the proposed encapsulation of PCB-contaminated *porous surfaces* should effectively prevent direct exposure of these PCB surfaces to building users. Implementation of the encapsulation will not present an unreasonable risk to public health or the environment and EPA may approve the encapsulation under § 761.61(c).

Harvard may proceed with its project in accordance with 40 CFR §§ 761.61(c); § 761.62; § 761.79(h); its Notification; and this Approval, subject to the conditions of Attachment 1.

Under this Approval, EPA is reserving its right to require additional mitigation measures should the results of the long-term sampling indicate that an unreasonable risk to building users from the PCBs remaining at the Site.

Questions and correspondence on this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100 (OSRR07-2)
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

EPA shall not consider this project complete until it has received all submittals required under this Approval. Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "James T. Owens III", followed by a horizontal flourish.

James T. Owens III, Director
Office of Site Remediation & Restoration

cc: J. Hamel, Woodard & Curran
MassDEP RTN: 3-30396
File

Attachment 1

ATTACHMENT 1:

**PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS
HARVARD REAL ESTATE-ALLSTON, INC.
168 WESTERN AVENUE ("the Site")
ALLSTON, MASSACHUSETTS**

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to the *PCB bulk product waste* and the *PCB remediation waste* located at the Site and identified in the Notification¹.
2. Harvard Real Estate-Allston, Inc. (Harvard) shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
3. In the event that the cleanup plan described in the Notification differs from the conditions specified in this Approval, the conditions of this Approval shall govern.
4. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
5. Harvard must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill during implementation of these cleanup activities, Harvard shall contact EPA within 24 hours for direction on PCB cleanup and sampling requirements.
6. Harvard is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time Harvard has or receives information indicating that Harvard or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within 24 hours of having or receiving the information.
7. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by Harvard are authorized to conduct the activities set forth in the Notification. Harvard is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.

¹ Information was prepared by ATC Associates, Inc. and Woodard & Curran on behalf of Harvard to satisfy the requirements under 40 CFR §761.61 (c) and 761.79(h). Information was submitted dated December 21, 2011 (Request for Approval of TSCA Risk-based Clean-up of PCBs); May 29, 2012 (Response to EPA Comments); and July 24, 2012 (email Response to EPA comments). These submittals shall be referred to as the "Notification".

8. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release Harvard from compliance with any applicable requirements of federal, state or local law; or 3) release Harvard from liability for, or otherwise resolve any violations of federal, state or local law.
9. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

NOTIFICATION AND CERTIFICATION CONDITIONS

10. This Approval may be revoked if the EPA does not receive written notification from Harvard of its acceptance of the conditions of this Approval within 10 business days of receipt.

CLEANUP AND DISPOSAL CONDITIONS

11. All visible residues of PCB-contaminated caulk (i.e., *PCB bulk product waste*) shall be removed as described in the Notification.
12. Following encapsulation of PCB-contaminated *porous surfaces* surface wipe sampling shall be conducted to determine the effectiveness of the encapsulation.
 - a. Wipe sampling of encapsulated *porous surfaces* shall be performed on a surface area basis by the standard wipe test as specified in 40 CFR § 761.123 (i.e. $\mu\text{g}/100\text{ cm}^2$). Chemical extraction for PCBs shall be conducted using Method 3500B/3540C of SW-846; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction or analytical method(s) is validated according to Subpart Q.
 - b. In the event that the PCB concentration of any wipe sample is $> 1\ \mu\text{g}/100\text{ cm}^2$, Harvard shall contact EPA for further discussion and direction on alternatives.
13. PCB waste (at any concentration) generated as a result of the activities described in the Notification, excluding any decontaminated materials, shall be marked in accordance with 40 CFR § 761.40; stored in a manner consistent with 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61 or § 761.62, unless otherwise specified below.
 - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).

- b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR § 761.79(b)(3)(i)(A), § 761.79(b)(3)(ii)(A), or § 761.79(c)(2).
- c. PCB-contaminated water generated during decontamination shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under § 761.60.

DEED RESTRICTION AND USE CONDITIONS

- 14. Within sixty (60) days of completing the activities described in the Notification and authorized in the Approval, Harvard shall submit for EPA review and approval, a draft deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following abatement; a description of the actions taken at the Site; a description of the use restrictions for the Site; and the long-term monitoring and maintenance requirements on the Site, which may be addressed in the monitoring and maintenance implementation plan (MMIP, see Condition 18). Within seven (7) days of receipt of EPA's approval of the draft deed restriction, Harvard shall record the deed restriction. A copy of this Approval shall be attached to the deed restriction.
- 15. Harvard shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that Harvard sells leases or transfers any portion of the Site, Harvard shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval ("re-issued approval") are as follows:
 - a. The new owner(s), lessee or transfer entity must request, in writing, that the EPA issue a new approval to the new owner(s), lessee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;
 - b. The EPA reviews the request, and determines whether to issue a new approval; and,
 - c. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the re-issued approval. The re-issued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the re-issued approval within thirty (30) days of the date of the re-issued approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on Harvard.

16. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the re-issued approval if it finds, due to the change in use, that this risk-based cleanup and disposal action will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s).
17. In any sale, lease or transfer of the Site, Harvard shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval for maintenance and monitoring of the barriers, except as provided above.

INSPECTION, MONITORING, MODIFICATION AND REVOCATION CONDITIONS

18. Within 120 days of completion of the work authorized under this Approval, Harvard shall submit for EPA's review and approval, a detailed MMIP for the surface encapsulants and barriers, as applicable. Harvard shall incorporate any changes to the MMIP required by EPA.
 - a. The MMIP shall include: a description of the activities that will be conducted, including inspection criteria, frequency, and routine maintenance activities; sampling protocols, sampling frequency, and analytical criteria; and reporting requirements.
 - b. The MMIP shall include a communications component which details how the maintenance and monitoring results will be communicated to the Site users.
 - c. The MMIP also shall include a worker training component for maintenance workers or for any person that will be conducting work that could impact the building coatings/barriers.
 - d. Harvard shall submit the results of these long-term monitoring and maintenance activities to EPA. Based on its review of the results, EPA may determine that modification to the MMIP is necessary in order to monitor and/or evaluate the long-term effectiveness of the coatings and/or barriers.
 - e. Activities required under the MMIP shall be conducted until such time that EPA determines, in writing, that such activities are no longer necessary.
 - f. A copy of the MMIP shall be attached to the deed restriction (see Condition 14).

19. Harvard shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by Harvard to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.
20. Any modification(s) in the plan, specifications, or information submitted by Harvard, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. Harvard shall inform the EPA of any modification, in writing, at least ten (10) days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.
21. If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information needed from Harvard to make a determination regarding potential risk.
22. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

RECORDKEEPING AND REPORTING CONDITIONS

23. Harvard shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the decontamination and the analytical sampling shall be established and maintained by Harvard in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection to authorized representatives of EPA.
24. As required under Condition 18 of this Approval, Harvard shall submit the results of the long-term monitoring and maintenance activities to EPA as specified in the final MMIP to be approved by EPA.

25. Harvard shall submit a Final Completion Report (Report) in both hard copy and electronic copy to the EPA within 120 days of completion of the activities described under this Approval. At a minimum, this Report shall include: a discussion of the project activities with a photo log, including any modifications that were made to the cleanup plan; characterization and post-abatement sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed off-site; copies of manifests and/or bills of lading; and, copies of certificates of disposal or similar certifications issued by the disposer, if applicable.
26. Required submittals shall be mailed to:
- Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100 (OSRR07-2)
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527
27. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.

END OF ATTACHMENT 1

